IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4427 OF 2005

Altaf Shahbuddin Dadani ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr.A.P.Mundargi, Sr.Counsel with Subhash Kanse & Parvez Menon for the Applicant.
Mr. U.V.Nikam, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 20, 2005.

P.C.:

1. Heard learned Counsel for the Applicant and learned A.P.P. for the State. My attention has been invited to the order dated 11th July, 2005 passed by the learned Sessions Judge in Application for Anticipatory Bail filed by the Applicant. Paragraph No.5 of the said order reads thus:

> 5. The case diary has been produced and as can be seen from the said case diary, there are statements of persons recorded, which speak for themselves. It further appears that Asian Paints had also filed some complaint and as can be seen from the statements of the persons recorded, it further appears that the investigation is yet required to be carried out in the said matter. Hence, therefore, at this stage, I am not inclined to pass any order in anticipatory bail application. Hence, no order is passed in the anticipatory bail application stands disposed of.

2. On plain reading of the said paragraph, it is apparent that the learned Sessions Judge has not considered the case made out by the Applicant for grant of anticipatory bail on its own merits. All that the learned Judge has stated is that at this

stage he was not inclined to pass any order in Anticipatory Bail Application and therefore, Application stands disposed of. In my view, when Application for Anticipatory Bail was made by the Applicant before the Sessions Court, the Court was under obligation to consider the merits of the Application and to pass an order either rejecting the Application on merits or granting the same.

3. In view of this position, the order dated 11th July, 2005 passed by the learned Sessions Judge is set aside and the learned Sessions Judge is directed to consider the Anticipatory Bail on its own merits. The learned Judge will decide the Application afresh on its own merits within a period of two weeks from today. Ad-interim relief granted on 15th July, 2005 will continue to operate till the disposal of the Application by the learned Sessions Judge.

JUDGE